



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Health Care Authority, Washington Apple Health

- ☒ Preproposal Statement of Inquiry was filed as WSR 14-02-065; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information:

WAC 182-527-2742, Services subject to recovery.

Hearing location(s):

Health Care Authority
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A
626 - 8th Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:
http://www.hca.wa.gov/documents/directions_to_csp.pdf
or directions can be obtained by calling: 360-725-1000

Date: **September 23, 2014** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than September 24, 2014 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator
Address: PO Box 45504, Olympia WA, 98504-5504
Delivery: 626 – 8th Avenue, Olympia WA 98504
e-mail: arc@hca.wa.gov
fax (360)586-9727

by **5:00 p.m. on September 23, 2014**

Assistance for persons with disabilities: Contact

Kelly Richters by: September 22, 2014

TTY (800) 848-5429 or (360) 725-1307 or e-mail:
kelly.richters@hca.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rule change will reduce the range of services subject to recovery.

Reasons supporting proposal: Rule changes are necessary to remove a financial barrier to applying for health care coverage under the Affordable Care Act. For the Affordable Care Act to be implemented successfully, it is important to get as many people as possible to apply for health care coverage through the Health Benefit Exchange.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

- Federal Law? ☒ Yes ☐ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION: ☐ Yes ☒ No
The Patient Protection and Affordable
Care Act, Public Law 111-148.

DATE
August 19, 2014

NAME (type or print)
Kevin M. Sullivan

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: August 19, 2014

TIME: 4:39 PM

WSR 14-17-114

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: Health Care Authority

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Mick Pettersen	Health Care Authority, PO Box 42716, Olympia, WA	(360) 725-1842
Implementation.....Stephen Kozak	Health Care Authority, PO Box 45534, Olympia, WA	(360) 725-1343
Enforcement.....Stephen Kozak	Health Care Authority, PO Box 45534, Olympia, WA	(360) 725-1343

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

The agency has analyzed the proposed rule and concludes that it does not impose more than minor costs for affected small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain:

RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

WAC 182-527-2742 Services subject to recovery. The medicaid agency or its designee considers the medical services the client received and the dates when the services were provided to the client, ~~((in order))~~ to determine whether the client's estate is liable for the cost of medical services provided. Subsection (1) of this section covers liability for medicaid services, subsection (2) of this section covers liability for state-only funded long-term care services (LTC), and subsection (3) of this section covers liability for all other ~~((state-funded))~~ state-only funded services. An estate can be liable under any of these subsections.

(1) The client's estate is liable for:

(a) All medicaid services provided from July 26, 1987, through June 30, 1994;

(b) The following medicaid services provided after June 30, 1994, and before July 1, 1995:

(i) Nursing facility services;

(ii) Home and community-based services; and

(iii) Hospital and prescription drug services provided to a client while receiving nursing facility services or home and community-based services~~((-))~~;

(c) The following medicaid services provided after June 30, 1995, and before June 1, 2004:

(i) Nursing facility services;

(ii) Home and community-based services;

(iii) Adult day health;

(iv) Medicaid personal care;

(v) Private duty nursing administered by the aging and long-term support administration (AL TSA) of the department of social and health services (DSHS); and

(vi) Hospital and prescription drug services provided to a client while receiving services described under (c)(i), (ii), (iii), (iv), or (v) of this subsection~~((-))~~;

(d) The following services provided on and after June 1, 2004, through December 31, 2009:

(i) All medicaid services, including those services described in subsection (c) of this section;

(ii) Medicare savings programs services for individuals also receiving medicaid;

(iii) Medicare premiums only for individuals also receiving medicaid; and

(iv) Premium payments to managed care organizations~~((-))~~;

(e) The following services provided on or after January 1, 2010, through December 31, 2013:

(i) All medicaid services except those ~~((defined under))~~ described in (d)(ii) and (iii) of this subsection;

(ii) All institutional medicaid services described in (c) of this subsection ~~((-e) of this section))~~;

(iii) Premium payments to managed care organizations; and

(iv) The client's proportional share of the state's monthly contribution to the centers for medicare and medicaid services (CMS) to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid~~((-))~~; and

(f) The following services provided after December 31, 2013:

(i) Nursing facility services, including those provided in a developmental disabilities administration (DDA) residential habilitation center (RHC);

(ii) Home and community-based services authorized by ALTSA or DDA, as follows:

(A) Community options program entry system (COPES);

(B) New Freedom consumer directed services (NFCDS);

(C) Basic Plus waiver;

(D) CORE waiver;

(E) Community protection waiver;

(F) Children's intensive in-home behavioral support (CIIBS) waiver;

(G) Medicaid personal care;

(iii) The portion of the Washington apple health (WAH) managed care premium used to pay for LTC services under the program of all-inclusive care for the elderly (PACE) authorized by ALTSA;

(iv) The portion of the WAH managed care premium used to pay for LTC services under the Washington medicaid integration partnership (WMIP) authorized by ALTSA or DDA;

(v) Roads to community living (RCL) demonstration project;

(vi) Personal care services funded under Title XIX or XXI;

(vii) Private duty nursing administered by ALTSA or DDA;

(viii) Intermediate care facility for individuals with intellectual disabilities (ICF/ID) services provided in either a private community setting or in an RHC; and

(ix) Hospital and prescription drug services provided to a client while receiving services under subsection (1)(f)(i) through (viii) of this section.

(2) The client's estate is liable for all state-only funded ((long term care)) LTC services (excluding the services listed in subsection (3)(a) through (d) of this section) and related hospital and prescription drug services provided to:

(a) Clients of the home and community services division of DSHS on and after July 1, 1995; and

(b) Clients of the ((developmental disabilities administration of DSHS)) DDA on and after June 1, 2004.

(3) The client's estate is liable for all ((state-funded)) state-only funded services provided regardless of the age of the client at the time the services were provided, with the following exceptions:

(a) State-only funded adult protective services (APS);

(b) Supplemental security payment (SSP) authorized by DDA;

(c) Offender reentry community safety program (ORCSP); and

(d) Volunteer chore services.